

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:)	
)	
READOPTION OF 312 IAC 4)	Administrative Cause
GOVERNING LAW ENFORCEMENT)	Number: 13-002L
)	(LSA Document #13-170(F))

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE

A. INTRODUCTION

For consideration is the readoption of 312 IAC 4 governing law enforcement. This article includes Rule 1—definitions; Rule 2—role and authority; Rule 3—organization; rule 4—direction and discipline; Rule 5—recruitment, selection, and promotion; Rule 6—other standards and practices. The text of 312 IAC 4 can be accessed through the Legislative Services Agency Internet site at:

<http://www.in.gov/legislative/iac/T03120/A00040.PDF?>

In April 2002, the Natural Resources Commission approved delegations of authority with respect to readoptions. Where the rules are being readopted in their current form without amendments the Director of the Division of Hearings may approve preliminary action. However, the Commission retained authority to take final action on readoptions.

The rules codified under 312 IAC 4 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary action on January 8, 2013. It is the standard practice to readopt rules by article, and 312 IAC 4 is now submitted for consideration as to final action.

B. READOPTION ANALYSIS REQUIRED UNDER IND. CODE § 4-22-2.5-3.1

Colonel Scotty Wilson of the Department of Natural Resources, Division of Law Enforcement was appointed as the Small Business Regulatory Coordinator for this rule

readoption. Wilson provided the following analyses of potential impacts to small business for the proposed readoption of 312 IAC 4:

Economic Impact Statement

LSA Document #13-170

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule:

Readopting this rule (312 IAC 4) will not affect small businesses. There will be no additional costs to any small business as a result of readopting this rule.

The continuation of this rule is critical to the operation of the Law Enforcement Division. It is the basis for the division's organizational structure and the direction and discipline of the division. The rule also establishes the standards of recruitment, selection, and promotion of division personnel.

Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur for Compliance:

None

Estimated Total Annual Economic Impact on Small Businesses to Comply:

None

Justification Statement of Requirement or Cost:

Not applicable.

Regulatory Flexibility Analysis of Alternative Methods:

Not applicable.

SMALL BUSINESS IMPACT STATEMENT (EIS)

LSA Document #13-170

Administrative Cause No. 13-002L

The continued need for the rule.

The readopting of this rule (312 IAC 4) should not create a fiscal impact on any small business.

The continuation of this rule is critical to the operation of the Law Enforcement Division. It is the basis for the division's organizational structure and the direction and discipline of the division. The rule also establishes the standards of recruitment, selection, and promotion of division personnel.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency.

The law enforcement division has not received any complaints concerning the implementation or readoption of this rule.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule.

The law enforcement division has not encountered any difficulties administering this rule and the rule is not applicable to any small business.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances.

The readopting of this rule should not create any conflicts with any other entity as the contents of this rule only pertain to the law enforcement division and does not contain any changes.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time.

This rule is evaluated in an ongoing fashion by staff of the law enforcement division. It is extremely critical in the day to day operations of the division. This rule was last reviewed in 2007. There has been no change in conditions or factors in areas affected by this rule since it was last reviewed.

Executive Order 13-03 requires agencies to “suspend rulemaking action on any proposed rules for which a notice of intent to adopt a rule...was not submitted to the office of the *Indiana Register* on or before January 14, 2013.” The requirements of Executive Order 13-03 were restated, along with additional compliance information in Financial Management Circular 2013-01. On March 1, 2013 the Director of the Department of Natural Resources, Robert E. Carter, submitted correspondence to the Office of Management and Budget seeking an exception from the moratorium. On May 2, 2013 Christopher D. Atkins, Director, Office of Management and Budget, provided written correspondence to all agency heads stating that the moratorium set forth in Executive Order 13-03 was not applicable to re-adoptions and that an exception did not need to be sought or received.

As specified by Executive Order 2-89 and Financial Management Circular 2010-4, fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on May 9, 2013. In a letter dated July 12, 2013, Christopher D. Atkins, Director, Office of Management and Budget, recommended that the proposed rule readoption be approved.

C. NOTICE OF INTENT TO READOPT AND RECOMMENDATION FOR FINAL ACTION

On May 8, 2013, the “Notice of Intent to Readopt” 312 IAC 4 was posted to the *Indiana Register* at 20130508-IR-312130170RNA as anticipated by Ind. Code § 4-22-2.5-2 and Ind. Code § 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 4 without changes. The notice also provided that a person had 30 days to submit a written request to the Natural Resources Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been made, the Commission would have been required to complete the full rule adoption process for the section requested to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under Ind. Code § 4-22-2-35 or elect the procedure for readoption under Ind. Code § 4-22-2. It is recommended that the Commission approve for readoption 312 IAC 4, without amendment for subsequent filing with the Publisher.

Dated: July 24, 2013

Sandra L. Jensen
Hearing Officer